REMARKS

Claims 1-17 and 20-60 are now in the case.

Applicants have amended independent claims 1, 20, 25 and 57 to add the requirement that the scents are normalized. Support for this amendment is found, at least, on page 18, lines 24-27 of Applicants' specification.

Applicants have amended claim 9 to correct the accidental deletion of the word "article."

Response to the Office Action

The Rejection under 35 U.S.C. 112

Claim 9 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the word "article" was deleted from claim 9, rendering it grammatically incorrect. In response, Applicants have amended claim 9 to restore the word "article." Accordingly, Applicants respectfully submit that the rejection under 35 U.S.C. 112, second paragraph has been overcome.

The Rejection under 35 U.S.C. 103 over Spector

Claims 1-60 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S. Patent 4,629,604). Applicants respectfully traverse this rejection. The reference does not establish a *prima facie* case of obviousness since it does not teach or suggest all of Applicants' claim limitations. Regarding Applicants' independent claims 1, 20, 25 and 57, Spector does not suggest a method wherein the multiple scents are normalized so that there is an equivalent intensity of scent experience for each scent in the article. Therefore, Applicants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

Spector does not teach or suggest normalizing multiple scents, as described by Applicants. Independent claims 1, 20, 25 and 57, as amended, require that the multiple scents are normalized so that there is an equivalent intensity of scent experience for each scent in the article. Spector, on the other hand, discloses an aroma device using scents that can vary in scent intensity. Spector's system uses liquid fragrance-soaked pads over individual heaters. As discussed in Col. 6, lines 27-38 of Spector, some aromas "are more pungent" than others.

In other words, the intensity of scent experience varies from scent to scent. Spector's solution is to alter the heat produced by his individual heaters. He does not teach or suggest Applicants' claimed method, which normalizes the scents themselves. Spector's use of heaters is complex, requiring the user to understand the level of intensity of each scent and then correctly alter the level of heat accordingly. In addition, the intensity of Spector's fragrances may vary too much for the difference in heating to "level out" the scent experience.

Applicants' independent claims 1, 20, 25 and 57 clearly require that the multiple scents are normalized so that there is an equivalent intensity of scent experience for each scent in the article, rather than requiring the end user to calculate intensity levels and correctly adjust heaters accordingly. Spector teaches that his method is sufficient to adjust intensity levels. Therefore, there would have been no motivation for one skilled in the art to modify Spector by normalizing scents. In addition, such normalization would be extremely difficult to achieve for Spector, who envisions using a wide variety of different scents to produce his "smell-o-vision" concept. His scents vary from "rain" to "coconut" to "skunk" (see Fig. 3). Therefore, Spector does not establish a *prima facie* case of obviousness since he doesn't disclose an element of Applicants' claimed invention (see MPEP 2143.03).

Spector also does not establish a *prima facie* case of obviousness since he doesn't disclose one or more elements of Applicants' independent claims 14, 16, 26, 40, 48 and 56. Specifically, Spector doesn't disclose the following elements (identified by claim):

Claim 14: breaking down the multiple scents associated with a particular place or environment into individual scent components,

Claim 16: introducing into the environment multiple, complementary scents,

Claim 26: obtaining input from the consumer and/or institution as to the consumer and/or institution's selection of one or more scents,

Claims 40, 48 and 56: allowing the consumer to select the scent elements for insertion into or placement onto the multiple scent-containing article.

The Office Action states that "marketing measures for personalized fragrancing systems are well recognized and it would have been well within the purview of one of ordinary skill in the art to determine and choose an optimum measure therefore (page 4, first paragraph). Applicants respectfully request that this rejection be reconsidered and withdrawn. The Office Action does not set forth a *prima facie* obviousness rejection. The Office Action does not state where in the Spector reference it is suggested that a personalized fragrancing system should be used in conjunction with Spector's device. The Office Action does not provide any secondary reference to combine with the Spector reference in support of the position that the

device in the Spector reference could be modified to be used with a personalized fragrancing system. The Applicants' disclosure should not be used as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art. Grain Processing Corp. v. American Maize-Products, 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988).

Since Spector does not teach or suggest any of the above-identified elements in his patent, a *prima facie* case of obviousness has not been established. As a result, Applicants contend that their claimed method is novel and unobvious and that the rejection under 35 U.S.C. 103(a) should be withdrawn.

Double Patenting Rejection

Claims 1-60 have been provisionally rejected under the doctrine of double patenting as being unpatentable over claims 1-31 of copending Application No. 09/730,333.

Applicants respectfully submit that this rejection is premature. Since neither the present application nor 09/730,033 has allowed claims, a determination as to the obviousness of their patented claims cannot be made. Applicants request deferral of this issue until one of the applications has allowed claims.

It is submitted that Claims 1-17 and 20-60 are in condition for allowance. Early and favorable action on all claims is therefore requested.

If the next action is other than to allow the claims, the favor of a telephonic interview is requested with the undersigned representative.

Respectfully submitted,
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